UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,695	06/28/2000	Steven Michael Schein	108.0003-00000	6334

22882 7590 02/08/2007	EXAMINER
MARTIN & FERRARO, LLP 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632	DURAN, ARTHUR D

	ART UNIT	PAPER NUMBER
	3622	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

		Application No.	Applicant(s)
Office Action Summary		09/605,695	SCHEIN, STEVEN MICHAEL
		Examiner	Art Unit
		Arthur Duran	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 January 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-15,17-20,22,23 and 27-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-15,17-20,22,23 and 27-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-7, 9-15, 17-20, 22, 23 and 27-31 have been examined.

Response to Amendment

2.   The Amendment filed on 1/10/07 is insufficient to overcome the prior rejection.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for continued

examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's

submission filed on 1/10/07 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-7, 9-15, 17-20, 22, 23 and 27-31 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ginter (5,892,900) in view of Gerace (5,848,396).

As per independent claim 1, Ginter (col. 325,11. 1-67) discloses:

"target content object. . . . "

Ginter (col. 197,11. 42-65) discloses: "This mechanism could be

used... to distribute customized versions of a piece of content and control

access to the various versions in the content object. . . . "

Ginter (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and

col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67;

and col. 269,11. 1-67) discloses: "smart object agents. . . . "

Ginter   (col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11.

22-35) discloses: "collect data on end user usage activities. . . . "

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and

col. 302,11. 115) shows "media content. . . ."

Ginter (the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot.

138,11. 3-67; cot. 156,11. 25-47; and col. 265,11. 28-67; cot. 266,11. 1-67; cot. 267,11. 1-67;

cot. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-

35 and whole document) shows the elements and limitations of claim 1; however,

Ginter lacks an explicit recitation of "a data reporter for collecting user

activity information representing exercise of a first media object by said at least one

user. . . ." even though;

Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot.

137,11. 367; cot. 138,11. 1-67; cot. 301, 11. 65-67; and cot. 302,11. 1-15) discloses:

"collect data on end user usage activities. . . . " In this case, the Examiner interprets

the disclosure of

Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11.3-67;

cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15) i.e., "collect data on end

user usage activities...... as showing "a data reporter for collecting user activity

information representing exercise of a first media object by said at least one user. . .."

It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of   inter   (cot. 152, 11. 28-39; cot.

154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11.

65-67; and cot. 302, lt. 115) would have been selected in accordance with "a data

reporter for collecting user activity information representing exercise of a first media

object by said at least one

user. . . ." because such disclosure would have provided a method enabling

'participants in a business value chain model to create an electronic version of

traditional business agreement terms and conditions and further enables these

participants to shape and evolve their electronic commerce models as they believe

appropriate to their business requirements, " (See'n er col. 8, 11. 40-49).

As per dependent claims 2-8,   inter shows the method of claim 1 and

subsequent base claims depending from claim 1.

in e (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; cot. 302,11.

1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot.

138,11. 367; cot. 156,11. 25-47; and cot. 265,11. 28-67; col. 266,11. 1-67; cot.

267,11. 1-67; cot.
268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot.

174,11. 22-35 and whole document) shows the elements and limitations of claims

2-8.

Ginter lacks explicit recitation of the elements and limitations of claims 2-8,

even though Ginter suggests same.
It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of inter   (cot. 137,11. 3-67; cot. 138,11. 1-

67; col. 301, 11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot.

197,11. 42-65; cot. 38,11. 35-67; col. 138,11. 3-67; cot. 156,11. 25-47; and cot.

265,11. 28-67; cot. 266,11. 167; cot. 267,11. 1-67; cot. 268,11. 1-67; cot. 269,11. 1-

67; cot. 152, 11. 28-39; cot. 154,11.

41-67; and **col. 174,11. 22-35 and** whole document) would have been selected in

accordance with the elements and limitations of claims 2-8 because such disclosure

would have provided a method enabling *"participants in a business value chain model*

to create an electronic version of traditional business agreement terms and conditions

and further enables these participants to shape and evolve their electronic commerce

models as they believe appropriate to their business requirements. " (See ' ter cot. 8,11.

40-49).

Independent claim 9 is rejected for substantially the same reasons as

independent claim 1.

As per dependent claims 10-16, in e shows the method of claim 9

and subsequent base claims depending from claim 9.

Ginter (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; cot. 302,11.

1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot.

138,11. 367; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 1-67; cot. 267,11.

1-67; cot. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11.-41-67; and

cot. 174,11. 22-35 and whole document) shows the elements and limitations of claims

10-16.

Ginter lacks explicit recitation of the elements and limitations of claims

10-16, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary

skill in the art that the disclosure of   Ginter(cot. 137,11. 3-67; cot. 138,11. 1-67; cot.

301,11. 65-67; col. 302,11. 1-15; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65;

col. 38, 11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,

11. 167; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; Col. 152, 11. 28-39; cot.

154, lt. 41-67; and col. 174,11. 22-35 and whole document) would have been selected in

accordance with the elements and limitations of claims 10-16 because such disclosure

would have provided a method enabling *"participants in a business value chain model to*

create an electronic version of traditional business agreement terms and conditions and

further enables these participants to shape and evolve their electronic commerce models

as they believe appropriate to their business requirements. " (See Ginter col. 8,11. 40-

49).

As per independent claim 17, <u>Ginter</u> (col. 325,11. 1-67) discloses:

"target content object......

Ginter (col. 50,11. 50-52) discloses: "FIG. 15A is *an example of a channel*

header and channel detail records. . . . "

Ginter (col. 109, 11. 42-50; and col. 111, 11. 16-40) discloses: *"relevant*

headers, content tags. . . . "
<u>*Gin=*</u> (col. 311, 11. 30-60) discloses: *"account profile that may relate to*

such content to the repository. . . . "

Ginter(col. 197,11. 42-65) discloses: "This *mechanism could be used*

... to distribute customized versions of a piece of content and control access to

the various versions in the content object. .....

Ginter (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col.

265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; and col.

269,11.1-67) discloses: *"smart object agents. . . . "*

Ginter (col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35)

discloses: *"collect data on end user usage activities. . . . "*

<u>Ginter</u> (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col.

302,11. 115) shows "media content......
Ginter (the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-

67; col. 138, 11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col.

267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-

67; and col. 174,11. 22-35 and whole document) shows the elements and limitations of

claim 17; however,

' Ginter lacks an explicit recitation of "a header so that a media object

profile is created for each media object...... even though;
Ginter (col. 109,11. 42-50; col. 111,11. 16-40; col. 311,11. 30-60; col.

137,11.3-67; col. 138,11. 1-67; col. 301, 11. 65-67; and col. 302,11. 1-15) suggests

same.

It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of inter   (col. 109, 11. 42-50; col.

111, 11. 16-40; col. 311, 11. 30-60; col. 137,11. 3-67; col. 138,11. 1-67; col.

301,11. 65-67; and col. 302,11. 115) would have been selected in accordance

with "a header so that a media object profile is created for each media object. . .

." because such disclosure would have provided a method enabling *participants*

in a business value chain model to create an electronic version of traditional

business agreement terms and conditions and further enables these participants

to shape and evolve their electronic commerce models as they believe

appropriate to their business requirements. " (See   inter col. 8,11. 40-49).

As per dependent claims 18-21,   inter shows the method of

claim 17 and subsequent base claims depending from claim 17.

Ginter lacks explicit recitation of the elements and limitations of claims

18-21, even though   inter suggests same.
It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of inter   (col. 137,11. 3-67; col.

138,11. 1-67; col. 301, 11. 65-67; col. 302,11. 1-15; the ABSTRACT; col. 325,11.

1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47;

and col. 265,11. 28-67; col. 266,11. 167; col. 267,11. 1-67; col. 268,11. 1-67; col.

269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and

whole document) would have been selected in *accordance with the elements and*

limitations of claims 18-21 because such disclosure would have provided a method

enabling 'participants in a business value chain model to create an electronic

version of traditional business agreement terms and conditions and further

enables these participants to shape and evolve their electronic commerce models

as they believe appropriate to their business requirements. " (See Gin col. 8,11.

4049).

   As per independent claim 22,   inter (col. 38,11. 35-67; col. 138,11. 3-67; col.
156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-
67; and col. 269,11. 1-67) discloses: "smart object agents. . . . "

   Ginter (col. 325,11. 1-67) discloses: "target content object. . . . "

   Ginter   (col. 197,11. 42-65) discloses: "This mechanism

could be used ... to distribute customized versions of a piece of content and

control access to the various versions in the content object......

   Ginter   *(col. 152, 11. 28-39; col. 154,11. 41-67; and cot. 174,11.*

22-35) discloses: "collect data on end user usage activities. . . . "

   Ginter *(col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and*

col. 302,11. 115) shows "media content. . . ."

Ginter (col. 311, 11. 30-60) discloses: "account profile that may

relate to such content to the repository......

Ginter (the ABSTRACT; col. 311,11. 30-60; col. 325,11. 1-67; col. 197,11.

4265; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67;

col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11.

28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) shows the

elements and limitations of claim 22; however,

Ginter lacks an explicit recitation of "a media object profile portion

containing information gathered from a plurality of users representing exercise of

said media object by said plurality of users. . . ." even though;
Ginter (col. 109,11. 42-50; col. 111,11. 16-40; col. 311,11. 30-60; col. 137,11. 3-

67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 1-15) suggests same. . It

would have been obvious at the time of the invention to a person of ordinary

skill in the art that the disclosure of   inter   (col. 109,11. 42-50; col. 111,11. 16-40; col.
311, 11. 30-60; col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115)
would have been selected in accordance with "a media object profile portion containing
information gathered from a plurality of users representing exercise of said media object by said
plurality of users. . . ." because such disclosure would have provided a method enabling
*"participants in a business value chain model to create an electronic version of traditional
business agreement terms and conditions and further enables these participants to shape and
evolve their electronic commerce models as they believe appropriate to their business
requirements. "* (See   inter col. 8,11. 40-49).

As per dependent claims 23-24, inter shows the method of claim 22 and

subsequent base claims depending from claim 22.

Ginter lacks explicit recitation of the elements and limitations of claims

23-24, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary

skill in the art that the disclosure of   i to   (col. 137, ll. 3-67; col. 138, ll. 1-67;

col. 301, 11. 65-67; col. 302,11. 1-15; the ABSTRACT; col. 325,11. 1-67; col. 197,11.

42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67;

col. 266,11. 167; col. 267,11. 1-67; col. 268, ll. 1-67; col. 269,11. 1-67; col. 152, 11.

28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document) would have

been selected in accordance with the elements and limitations of claims 23-24 because

such disclosure would have provided a method enabling *participants in a business*

value chain model to create an electronic version of traditional business agreement

terms and conditions and further enables these participants to shape and evolve their

electronic commerce models as they believe appropriate to their business requirements.

" (See   inter col. 8,11. 4049).

As per independent claim 25,   in r (col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11.
25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268, ll. 167; and col.
269,11. 1-67) discloses: "smart object agents. . . . "

Ginter (col. 325, 11. 1-67) discloses: "target content object. ....."

Ginter (col. 50,11. 50-52) discloses: "FIG. 15A is an example of a channel

header and channel detail records......

Ginter (col. 109,11. 42-50; and cola 111, 11. 16-40) discloses: "relevant

headers, content tags. . . . "

Ginter (col. 311, 11. 30-60) discloses: "account profile that may relate to such content to the repository. . . . "

Ginter (col. 197,11. 42-65) discloses: "This mechanism could be used... to distribute customized versions of a piece of content and control access to the various versions in the content object. . . . "

Ginter (col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35) discloses: "collect data on end user usage activities......

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col. 302,11. 115) shows "media content. . . ."

As per independent claim 27,   in e   (col. 325,11. 1-67) discloses: *"target content object. . . . "*

Ginter   (col. 197,11. 42-65) discloses: *"This mechanism could be used ... to distribute customized versions of a piece of content and control access to the various versions in the content object. . . ."*

Ginter (col. 38,11. 35-67; cot. 138,11. 3-67; cot. 156,11. 25-47; and cot. 265, It. 28-67; cot. 266,11. 1-67; cot. 267,11. 1-67; cot. 268,11. 1-67; and cot. 269,11. 1-67) discloses: "smart object agents. . . . "

Ginter(cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35) discloses: "collect data on end user usage activities. . . . "

Ginter   (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302, lt. 115) shows "media content......

Ginter (the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot. 138,11. 3-67; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 1-67; cot. 267,11. 1-67; cot. 268,11.1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35 and whole document) shows the elements and limitations of claim 27; however,

Ginter lacks an explicit recitation of "collecting information form a

plurality of users related to the viewing of at least one media object. . . ." even

though;

Ginter (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot.

137,11. 367; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15)

discloses: "collect data on end user usage activities. . . . " In this case, the

Examiner interprets the disclosure of
in e   (cot. 152, 11. 28-39; cot. 154,11. 41-67; cot. 174,11. 22-35; cot. 137,11. 3-

67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot. 302,11. 1-15) i.e., "collect data

on end user *usage activities......* as showing "collecting information form a

plurality of users related to the viewing of at least one media object. . . ."

It would have been obvious at the time of the invention to a person of ordinary

skill in the art that the disclosure of   inter (cot. 152, 11. 28-39; cot. 154,11. 41-67;

cot. 174,11. 22-35; cot. 137,11.3-67; cot. 138,11. 1-67; cot. 301,11. 65-67; and cot.

302,11. 115) would have been selected in accordance with "collecting information form

a plurality of users related to the viewing of at least one media object. . . ." because

such disclosure would have provided a method enabling *participants in a business*

value chain model to create an electronic version of traditional business agreement

terms and conditions and further enables these participants to shape and evolve their

electronic commerce models as they believe appropriate to their business requirements.

" (See Ginter cot. 8,11. 4049).

As per dependent claim 28, Ginter shows the method of claim 27.

Ginter lacks explicit recitation of the elements and limitations of claim 27, even though Ginter suggests same.

It would have been obvious at the time of the invention to a person of ordinary skill in the art that the disclosure of Ginter (cot. 137,11. 3-67; cot. 138,11. 1-67; cot. 301, 11. 65-67; cot. 302,11. 1-15; the ABSTRACT; cot. 325,11. 1-67; cot. 197,11. 42-65; cot. 38,11. 35-67; cot. 138,11. 3-67; cot. 156,11. 25-47; and cot. 265,11. 28-67; cot. 266,11. 1-

67; col. 267,11. 1-67; col. 268,11. 1-67; cot. 269,11. 1-67; cot. 152, 11. 28-39; cot.

154,11. 41-67; and cot. 174,11. 22-35 and whole document) would have been selected in

accordance with the elements and limitations of claim 28 because such disclosure would

have provided a method enabling *"participants in a business value chain model to create*

an electronic version of traditional business agreement terms and conditions and further

enables these participants to shape and evolve their electronic commerce models as they

believe appropriate to their business requirements. " (See   inter cot. 8,11. 40-49).

As per independent claim 29,   'nter (cot. 325,11. 1-67) discloses: *"target*

content object......

Ginter (col. 311, 11. 30-60) discloses: *"account profile that may relate to*

such content to the repository. . . . "

Ginter(col. 152, 11. 28-39; cot. 154,11. 41-67; and cot. 174,11. 22-35) discloses:

"collect data on end user usage activities. . . . "

Ginter (cot. 18,11. 38-67; cot. 19,11. 10; col. 25,11. 1-35; cot. 37,11. 15-67; col.

38, 11. 1-35; cot. 307,11. 5-30; and col. 338,11. 10-67) shows "collecting information

from users of Internet links; correlating the collected information with at least one Internet

link; creating an Internet link profile based on the correlated information; and selecting at

least one Internet link based on the profile of a user requested link......

Ginter (col. 137,11. 3-67; col. 138,11. 1-67; col. 301,11. 65-67; and col.

302,11. 115) shows "media content...."
        Ginter (the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col.
138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col. 267, 11. 1-67;
col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-
35 and whole document) shows the elements and limitations of claim 29; however,

        Ginter lacks an explicit recitation of "collecting information from users of Internet
links; correlating the collected information with at least one Internet link; creating an Internet
link profile based on the correlated information; and selecting at least one Internet link based on
the profile of a user requested link......   even though;

        Ginter (col. 18,11. 38-67; col. 19, 11. 10; col. 25,11. 1-35; cot. 37, ll. 15-67;

col. 38,11. 1-35; col. 307,11. 5-30; and col. 338,11. 10-67; the ABSTRACT; col.

325,11. 1-67; col. 197,11. 42-65; col. 38,11. 35-67; col. 138,11. 3-67; col. 156,11. 25-

47; and col. 265,

11. 28-67; col. 266,11. 1-67; col. 267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col.

152, 11. 28-39; col. 154,11. 41-67; and col. 174,11. 22-35 and whole document)

suggests same. It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of Ginter   (col. 18,11. 38-67; col. 19,11.

10; col. 25,11. 1-35; col. 37,11. 15-67; col. 38,11. 1-35; col. 307, ll. 5-30; and col.

338,11. 10-67; the ABSTRACT; col. 325,11. 1-67; col. 197,11. 42-65; col. 38,11.35-

67; col. 138,11. 3-67; col. 156,11. 25-47; and col. 265,11. 28-67; col. 266,11. 1-67; col.

267,11. 1-67; col. 268,11. 1-67; col. 269,11. 1-67; col. 152, 11. 28-39; col. 154,11. 41-

67; and col. 174,11. 22-35 and whole document) would have been selected in

accordance with "collecting information from users of Internet links; correlating the   ·

collected information with at least one Internet link; creating an Internet link profile

based on the correlated information; and selecting at least one Internet link based on the

profile of a user requested link. . . ." because such disclosure would have provided a

method enabling `participants in a business value chain model to create an electronic

version of traditional business agreement terms and conditions and further enables

these participants to shape and evolve their electronic commerce models as they

believe appropriate to their business requirements. " (See inter col. 8,11. 40-49).

As per dependent claim 30, Ginter shows the method of claim 29.

Ginter lacks explicit recitation of the elements and limitations of claim

29, even though Ginter suggests same.
It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of   inte (col. 18,11. 38-67; col. 19,11.

10; col. 25,11. 135; col. 37,11. 15-67; col. 38,11. 1-35; col. 307,11. 5-30; and col.

338,11. 10-67) would have been selected in accordance with the elements and

limitations of claim 30 because such disclosure would have provided a method

enabling `participants in a business value

chain model to create an electronic version of traditional business agreement

terms and conditions and further enables these participants to shape and evolve

their electronic commerce models as they believe appropriate to their business

requirements. " (See Ginter col. 8,11. 40-49).

As per dependent claim 31, Ginter shows the method of claim 29.

Ginter lacks explicit recitation of the elements and limitations of claim

29, even though Ginter suggests the same.

It would have been obvious at the time of the invention to a person of

ordinary skill in the art that the disclosure of Ginter (cot. 18,11. 38-67; cot. 19,11.

10; cot. 25,11. 135; cot. 37,11. 15-67; cot. 38,11. 1-35; col. 307,11. 5-30; and cot.

338,11. 10-67) would have been selected in accordance with the elements and

limitations of claim 31 because such disclosure would have provided a method

enabling *participants in a business value chain model to create an electronic*

version of traditional business agreement terms and conditions and further enables

these participants to shape and evolve their electronic commerce models as they

believe appropriate to their business requirements. " (See

Ginter col. 8,11. 40-49).

Additionally, Ginter discloses utilization of multimedia objects, audio, audio-visual,

video, e-commerce:

"(73)   Information distributed using VDE may take many forms. It may, for example, be

"distributed" for use on an individual's own computer, that is the present invention can be used

to provide security for locally stored data. Alternatively, VDE may be used with information

that is dispersed by authors and/or publishers to one or more recipients. This information may

take many forms including: movies, audio recordings, games, electronic catalog shopping,

multimedia, training materials, E-mail and personal documents, object oriented libraries,

software programming resources, and reference/record keeping information resources (such as

business, medical, legal, scientific, governmental, and consumer databases)" (col 7, lines 45-

57).

Ginter also discloses utilizing the Internet and links:

"(570) If External Services Manager 772 is used to access VDE objects, many different

techniques are possible. For example, the VDE objects may be formatted for use with the

World Wide Web protocols (HTML, HTTP, and URL) by including relevant headers, content

tags, host ID to URL conversion (e.g., using Name Services Manager 752) and an HTTP-aware

instance of Services Transport Layer 786" (col 109, lines 41-50).

Also, Ginter discloses utilizing the Internet, sending users content, profiling users,

tracking user activity, keeping a user activity history, and advertising (the above citations from

the Ginter reference; the citations from the preceding rejection referring to the Ginter reference,

throughout the Ginter reference; and below):

"(10) The present invention can materially enhance the revenue of content providers,

lower the distribution costs and the costs for content, better support advertising and usage

information gathering, and better satisfy the needs of electronic information users. These

improvements can lead to a significant increase in the amount and variety of electronic

information and the methods by which such information is distributed" (col 1, line 65-col 2, line

9).

Ginter does not explicitly disclose targeting users.

Gerace discloses utilizing multimedia objects, audio, audio-visual, video, e-commerce,

the Internet, website, links, and advertising (col 1, lines 20-45; col 3, lines 5-10; col 2, lines 35-

42).

Gerace further discloses identifying specific media objects based on user activity with that same object or another object and targeting the specific media object to the user (col 2, lines 1-60; col 6, line 57-col 7, line 25; col 20, lines 9-19).

Gerace further discloses a "smart media object" having a profile portion containing information gathered from a plurality of users representing exercise of the media object portion by the plurality of users (col 20, lines 9-20; col 18, lines 10-26; col 33, lines 55-col 34, line 25).

Gerace further discloses a method of targeting media objects to a user on-line wherein at least one Internet link based on the profile of a user requested link is delivered to the user with at least one additional link having a link profile matching at least one aspect of the profile of the requested link (col 16, lines 36-55; col 14, lines 24-35).

Gerace further discloses a "hidden search engine" that creates a profile for Internet links and selects at least one Internet link based on at least one aspect of each link profile for delivery with a user requested link to the user (col 16, lines 36-55; col 14, lines 24-35). Notice that in this citation from Gerace that Gerace presents specific banner advertising based on information known about that banner advertising and a determination as to how well suited that banner advertising is for presenting at a specific time or situation. Also, notice that the appropriateness of presenting the advertising is determined based on what is known about the advertising compared with a combination of information known about that user, the current information on display to the user, and the current information requested by the user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace's further features on tracking user responses to content

and targeting a user to Ginter's presenting a user content and profiling a user. One would have

been motivated to do this in order to better present a user with information of interest.

Additionally, Ginter discloses advertising, Internet advertising, maximizing advertising

revenues, delivering preferred content to a user, and profiling a user (below Ginter citations and

throughout the Ginter reference):

"The present invention can materially enhance the revenue of content providers, lower

the distribution costs and the costs for content, better support advertising and usage

information gathering, and better satisfy the needs of electronic information users. These

improvements can lead to a significant increase in the amount and variety of electronic

information and the methods by which such information is distributed (col 1, line 65-col 2, line

9);

Frequently, for a VDE application for a given content model (such as distribution of

entertainment on CD-ROM, content delivery from an Internet repository, or electronic catalog

shopping and advertising, or some combination of the above) participants would be able to

securely select from amongst available, alternative control methods and apply related parameter

data, wherein such selection of control method and/or submission of data would constitute their

"contribution" of control information (col 18, lines 55-65).

Reporting of usage information and user requests can be used for supporting electronic

currency, billing, payment and credit related activities, and/or for user profile analysis and/or

broader market survey analysis and marketing (consolidated) list generation or other

information derived, at least in part, from said usage information. this information can

be provided to content providers or other parties, through secure, authenticated encrypted

communication to the VDE installation secure subsystems" (col 36, lines 26-38).

Gerace discloses Internet advertising, maximizing advertising revenue, delivering content

and advertising of interest to the user, and targeting the user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Gerace's further features on tracking user responses to content

and targeting a user to Ginter's presenting a user content and profiling a user. One would have

been motivated to do this in order to better present a user with information of interest.

However, Gerace discloses identifying specific media objects based on user activity with

that same object or another object and targeting the specific media object to the user (see the

above rejection and Gerace at: Fig. 2; Fig. 3a; Fig. 3f; Fig. 3g; col 5, lines 15-25; col 20, lines 9-

20; col 6, line 57-col 7, line 45; col 33, line 35-col 34, line 27).

Gerace further discloses profiles and classifications for content objects (col 3, lines 5-10).

Gerace further discloses matching content object profiles relative to characteristics of

requested user information and also matching secondary or additional content objects relative to

other content objects presented on a page or requested by a user (col 16, lines 36-55). Notice in

this citation that Gerace discloses deliving content objects based upon the requested type of

information the user has entered. Also, notice in this citation that Gerace discloses delivering

advertisements or second media objects (". . .return appropriate advertisements. . ." from col 16,

lines 36-55) that are relevant to the first media object that the user has requested (which in this

case is information on Detroit).

Additionally, Gerace discloses gathering content use information generated by user

interaction with a media object and correlating the gathered content use information with the

media object to create a media object profile:

> "(87) To ensure that sponsors achieve the optimal result from the ads they
> place, program 31 combines regression analysis with the above weighting
> technique to achieve real-time, automatic optimization as discussed previously.
> Under this auto-targeting system, an ad package is shown to general users.
> After a large number (e.g., 10,000) hits, program 31 runs a regression on a
> subject Ad Package Object 33b to see what characteristics are important, and
> who (type of user profile) the ad appeals to most. Program 31 then
> automatically enters weighting information based on that regression to create a
> targeted system and runs the advertisement (Ad Package Object 33b) again in
> front of this new targeted group. Program 31 then runs a regression every
> 10,000 hits, for example, including a group of 500 general people as a control,
> and adjusts the weighting. This continues until the Ad Package is exhausted
> (i.e., the number of hits and click throughs are achieved)" (col 18, lines 10-26);

> (90) In response to the sponsor's 33 request for (i.e., selection of) a
> particular report, main routine 39 calls reporting subroutine 41 which queries
> Sponsor Object 33a, Ad Package Object 33b, Ad Series Objects 33c and Ads
> Objects 33d of the sponsor for details. For example, demographic elements,
> number of click throughs purchased, number achieved to date, number of hits,
> and time remaining in an advertisement are retrieved. Program 31 then checks
> the usage logs and retrieves the profile of users who selected the sponsor's
> advertisement, using the User Objects 37a. The program 31 then generates a
> report using this data and uses standard statistical regression techniques to
> find correlation between success and different demographic and/or usage
> information, and reports those as well. For example, a report comprises
> several defined elements, including overall success of the advertisement,
> breakdown by requested demographic elements, comparison of target market with
> control group, number of click through requested versus number achieved to
> date, as well as the time remaining in an advertisement. Finally, program 31
> completes a regression analysis using data stored in Ad Package Objects 33b and
> User Objects 37, and suggests other demographic groups which a sponsor might
> want to consider for a subsequent ad" (col 18, line 50-col 19, line 5).

Gerace further disclsoes gathering content use information generated by user interaction

with a media object and correlating the gathered content use information with the media object to

create a media object profile:

"(14) In addition, for each advertisement, advertisement module 75 (and/or user profiling member 73) records (a) the number of times and/or number of users to whom the advertisement has been displayed, (b) the number of times/users who have requested more information (via a click of a mouse on a corresponding menu selection) regarding the advertisement, and when possible (c) the number of purchases obtained through program 31's display of the advertisement. <u>As such, advertisement module 75 holds performance data for each advertisement, and hence enables program controller 79 to provide performance reports to sponsors who log on to program 31.</u> Various <u>regression</u> techniques and the like are used in the performance reports in a manner consistent with the state of the art" (col 5, lines 25-40).

Gerace also discloses these features when discussing reporting (col 33, line 55-col 34, line 23). And, notice that for an individual ad package that Gerace can analyze the success of the ad for the demographic profile requested and/or also for a control group (col 33, line 55-65). Hence, Gerace is gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile.

Gerace further disclsoes gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile (claim 9; claim 13; col 12, line 55-col 13, lines 33).

Notice in these citations preceding that the particular ad or ad package can be tracked for how it is responded to. Hence, Gerace discloses a media object profile or gathering content use information generated by user interaction with a media object and correlating the gathered content use information with the media object to create a media object profile.

Hence, the combination of the prior art renders obvious the features of the Applicant's claims.

Response to Arguments

5.   Applicant's arguments with respect to the claims have been considered but are not found

persuasive.

On pages 9 and 12, respectively, of the Applicant's Remarks dated 1/10/2007, Applicant

states:

"Ginter f ails to teach or suggest gathering content use information generated by user

interaction with a media object and correlating the gathered content use information with the

media object to create a media object profile as recited in independent claims 1, 9, 17, and 27.

Gerace fails to teach or suggest gathering content use information generated by user

interaction with a media object and correlating the gathered content use information with the

media object to create a media object profile as recited in independent claims 1, 9, 17, and 27."

However, Examiner notes that while specific references were made to the prior art, it is

actually also the prior art in its entirety and the combination of the prior art in its entirety that is

being referred to. Also, one cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,

208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986).

Also, Examiner notes that teaching of a preference or different options does not constitute

a teaching away from the proposed combination under review. See In re Fulton, 391 F.3d 1195,

1199-1200, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). Hence, if Gerace discloses that a profile of

what a particular user responds to is kept, that does not prevent Gerace from also disclosing that

the profile of how a particular ad is responded to is also kept. That is, nothing prevents Gerace

from disclosing a user profile of user responses and/or also an object profile of how a particular

ad was responded to.

And, Gerace discloses gathering content use information generated by user interaction

with a media object and correlating the gathered content use information with the media object to

create a media object profile:

"(87)   To ensure that sponsors achieve the optimal result from the ads they
place, program 31 combines regression analysis with the above weighting
technique to achieve real-time, automatic optimization as discussed previously.
Under this auto-targeting system, an ad package is shown to general users.
After a large number (e.g., 10,000) hits, program 31 runs a regression on a
subject Ad Package Object 33b to see what characteristics are important, and
who (type of user profile) the ad appeals to most. Program 31 then
automatically enters weighting information based on that regression to create a
targeted system and runs the advertisement (Ad Package Object 33b) again in
front of this new targeted group. Program 31 then runs a regression every
10,000 hits, for example, including a group of 500 general people as a control,
and adjusts the weighting. This continues until the Ad Package is exhausted
(i.e., the number of hits and click throughs are achieved)" (col 18, lines 10-26);

(90)   In response to the sponsor's 33 request for (i.e., selection of) a
particular report, main routine 39 calls reporting subroutine 41 which queries
Sponsor Object 33a, Ad Package Object 33b, Ad Series Objects 33c and Ads
Objects 33d of the sponsor for details. For example, demographic elements,
number of click throughs purchased, number achieved to date, number of hits,
and time remaining in an advertisement are retrieved. Program 31 then checks
the usage logs and retrieves the profile of users who selected the sponsor's
advertisement, using the User Objects 37a. The program 31 then generates a
report using this data and uses standard statistical regression techniques to
find correlation between success and different demographic and/or usage
information, and reports those as well. For example, a report comprises
several defined elements, including overall success of the advertisement,
breakdown by requested demographic elements, comparison of target market with
control group, number of click through requested versus number achieved to
date, as well as the time remaining in an advertisement. Finally, program 31
completes a regression analysis using data stored in Ad Package Objects 33b and
User Objects 37, and suggests other demographic groups which a sponsor might
want to consider for a subsequent ad" (col 18, line 50-col 19, line 5).

Gerace further disclsoes gathering content use information generated by user interaction

with a media object and correlating the gathered content use information with the media object to

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> "(14) In addition, for each advertisement, advertisement module 75 (and/or
> user profiling member 73) records (a) the number of times and/or number of
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> times/users who have requested more information (via a click of a mouse on a
> corresponding menu selection) regarding the advertisement, and when possible
> (c) the number of purchases obtained through program 31's display of the
> advertisement. As such, advertisement module 75 holds performance data for
> each advertisement, and hence enables program controller 79 to provide
> performance reports to sponsors who log on to program 31. Various regression
> techniques and the like are used in the performance reports in a manner
> consistent with the state of the art" (col 5, lines 25-40).

Gerace also discloses these features when discussing reporting (col 33, line 55-col 34,

line 23). And, notice that for an individual ad package that Gerace can analyze the success of the

ad for the demographic profile requested and/or also for a control group (col 33, line 55-65).

Hence, Gerace is gathering content use information generated by user interaction with a media

object and correlating the gathered content use information with the media object to create a

media object profile.

Gerace further disclsoes gathering content use information generated by user interaction

with a media object and correlating the gathered content use information with the media object to

create a media object profile (claim 9; claim 13; col 12, line 55-col 13, lines 33).

Notice in these citations preceding that the particular ad or ad package can be tracked for

how it is responded to. Hence, Gerace discloses a media object profile or gathering content use

information generated by user interaction with a media object and correlating the gathered

content use information with the media object to create a media object profile.

Hence, Gerace discloses these features of the Applicant's claims.

Hence, the combination of the prior art renders obvious the features of the Applicant's claims.

Also, Examiner notes that several of the citations above were already made in the prior rejection dated 1/9/2006. And, Examiner notes that no new art has been used in this current rejection.

Also, Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Examiner notes that it must be presumed that the artisan knows something about the art apart from what the references disclose. In re Jacobv, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The problem cannot be approached on the basis that artisans would only know what they read in references; such artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby. Also, the conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint of suggestion a particular reference. In re Bozek, 416 F.2d 1385, USPQ 545 (CCPA 1969). And, every reference relies to some extent on knowledge or persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F.2d 656, USPQ 12 (CCPA 1977).

Also, Examiner notes that the person of ordinary skill in the art is a hypothetical person

who is presumed to know the relevant prior art. Custom Accessories, Inc. v. Jeffrey-

Allan Indus., Inc., 807 F.2d 955,962, 1 USPQ2d 1196, 1201 (Fed. Cir. 1986).

In determining this skill level, the court may consider various factors including "type of

problems encountered in the art; prior art solutions to those problems; rapidity with which

innovations are made; sophistication of the technology; and educational level of active workers

in the field." Id., cited in In re GPAC, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir.

1995). In a given case, every factor may not be present, and one or more factors may

predominate. Id. at 962-63, 1 USPQ2d at 1201.

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of

the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art

of record in the next Office action if they had been entered in the application prior to entry under

37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action

after the filing of a request for continued examination and the submission under 37 CFR 1.114.

See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The

examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arthur Duran
Primary Examiner
1/29/2007